

BEFORE THE TENNESSEE REGULATORY AUTHORITY

AT NASHVILLE, TENNESSEE

March 28, 2003

IN RE:

**NOTIFICATION OF EMERGENCE OF ICG
COMMUNICATIONS, INC., *et al.* FROM CHAPTER 11**

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**DOCKET NO.
03-00067**

ORDER APPROVING TRANSFER OF AUTHORITY

This matter came before Chairman Sara Kyle, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on February 18, 2003, for consideration of the *Application* filed by ICG Communications, Inc. ("ICG Communications") and ICG Telecom Group, Inc. ("ICG Telecom"). The *Application* was considered pursuant to the provisions of Tenn. Code Ann. § 65-4-113, which requires Authority approval of a transfer of authority to provide utility services.

Requirement of and Standards for Authority Approval

Tenn. Code Ann. § 65-4-113 requires a public utility to obtain Authority approval to transfer its authority to provide utility services. Tenn. Code Ann. § 65-4-113(a) provides as follows:

- (a) No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) provides the standards by which the Authority shall consider an application for transfer of authority, in pertinent part, as follows:

(b) Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

The Application

The *Application* is contained in a letter to the Authority dated January 14, 2003.¹ In the *Application*, ICG Communications and ICG Telecom request Authority approval of a transfer of control of ICG Telecom from its current parent, ICG Communications, to a newly reorganized ICG Communications, Inc.. The transfer is part of a bankruptcy reorganization plan. ICG Telecom is a Colorado corporation with its principal offices located in Englewood, Colorado. ICG Telecom is a wholly-owned subsidiary of ICG Communications, which is a Delaware corporation with its principal offices located in Englewood, Colorado. ICG Telecom was granted authority to provide competitive local exchange and interstate interexchange services in Tennessee by Order dated October 26, 1993, in Tennessee Public Service Commission Docket No. 93-07922.

According to the *Application*, ICG Communications filed a petition with the U.S. Bankruptcy Court for the District of Delaware pursuant to Chapter 11 of the U.S. Bankruptcy Code on November 14, 2000. The Court has approved ICG's plan for re-emergence from Chapter 11, pending regulatory approvals.

¹ The January 14, 2003 letter is a notification to the Authority of the proposed transaction. Because, as explained herein, this transaction involves a transfer of the authority to provide utility services held by ICG Telecom, approval by the Authority is required, and the Authority treated the letter of notification submitted by ICG Communications and ICG Telecom as their Application for such approval.

The *Application* states that the restructuring of ICG Communications will be accomplished by converting general unsecured claims into one hundred percent (100%) of newly issued voting common stock of the reorganized ICG Communications. The reorganization plan calls for cancellation of the common and preferred stock of ICG Communications and the issuance of 8,000,000 shares of new common stock. Upon completion of the reorganization plan, all of the shares of new common stock will be distributed to various creditors of ICG Communications pursuant to an allocation scheme set forth in the reorganization plan. Thus, the creditors of ICG Communications will become its new equity holders.

Public Interest Considerations

The *Application* states that the indirect transfer of control of ICG Telecom will not involve a change in the name under which ICG Telecom currently offers service in the State of Tennessee, nor will it change any of the services ICG Telecom offers in Tennessee. There will be no change to the rates or terms and conditions of service. ICG Telecom will continue to be led by the same team of experienced telecommunications officers and personnel. The indirect transfer of control of ICG Telecom will be seamless and completely transparent to Tennessee customers. Furthermore, ICG Communications will emerge from bankruptcy with a much-improved capital position and a renewed ability to compete effectively in the Tennessee telecommunications market.

Findings

The Authority considered this matter at the February 18, 2003 Authority Conference. Based upon careful consideration of the *Application* and of the entire record of this matter, the Authority finds and concludes as follows:

1. The Authority has jurisdiction over the subject matter of this *Application* pursuant to Tenn. Code Ann. § 65-4-113;

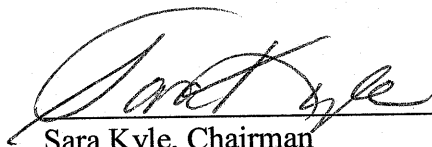
2. ICG Telecom Group, Inc. has been granted authority to provide resold telecommunications services in Tennessee;

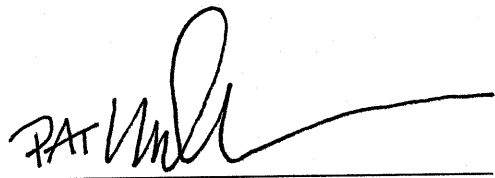
3. Ownership of the parent company of ICG Telecom Group, Inc. will be acquired by its creditors, resulting in a transfer of the authority to provide utility services that has been granted to ICG Telecom Group, Inc.; and

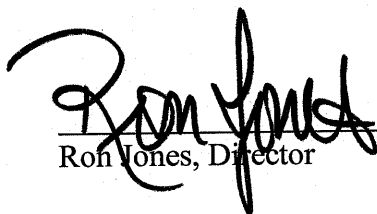
4. The transfer of authority will benefit the consuming public.

IT IS THEREFORE ORDERED THAT:

The *Application* of ICG Communications, Inc. and ICG Telecom Group, Inc. for approval of the transfer of authority described herein is approved.


Sara Kyle, Chairman


Pat Miller, Director


Ron Jones, Director